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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/795,886

03/08/2004

Cammie McDaniel

79824

2099

22242

7590

04/24/2006

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
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CHICAGO, IL 60603-3406

EXAMINER

NEWTON, JARED W

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 04/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/795,886	MCDANIEL, CAMMIE	
	Examiner	Art Unit	
	Jared W. Newton	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,6,8-17 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,8-17 and 20-24 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This final rejection is in reply to the remarks filed March 13, 2006, by which claims 1, 5, 6, 8, 9, 11, 16, and 17 were amended, claims 3, 4, 7, 18, and 19 were cancelled, and claims 21-24 were added.

Claim Objections

The noted claims are objected to because of the following informalities:

- “may pivotably be moved” should be changed to --are pivotably moved-- in line 7 of claim 1. The use of the word “may” renders the claim indefinite in that “may” can also be interpreted to mean “may not” therefore allowing the claim to be anticipated by a structure comprising a non-pivoting extension;
Appropriate correction is required.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “permanently extending attachment members” (see Claim 16, Line 10) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 16 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In particular, the claim limitations set forth attachment members "permanently extending" from each extension. The specification

does not set forth nor do the drawings show a permanent attachment between the attachment members and the extensions. The specification recites, "In the present embodiment, by way of example, the attachment support 44 includes bores 130 for receiving attachment members 24 depending therefrom." (See Paragraph [0033]). Further, the drawings show a non-permanent attachment by way of Figure 5, which shows the attachment members as removed from the bores.

Claim Rejections - 35 USC § 103

Claims 1, 2, 5, 6, 8-17, and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 1,236,212 to Saladee, and further in view of US Patent No. 5,901,888 to Schneider et al.

Saladee discloses a collapsible clothes rack comprising: a freestanding support 5; a base 2 rigidly connected to the support; and a plurality of extensions 9 pivotally connected to the support and including attachment members 23 capable of directly engaging and supporting articles of fabric, wherein said extensions pivot between a first position parallel with the support and a second position at an angle relative to the support (see FIG. 1). Saladee further discloses said support being a generally vertical post; said extensions extending generally horizontally from the support when in the second position; and said base permitting rotation of said support about its central axis (see Saladee, Lines 64-72).

Saladee does not disclose:

- a. Said attachment members capable of directly engaging and supporting the articles of fabric when the extensions are in both said first and said second positions (Claim 1);
- b. Said extensions including a securable end for being secured to said support when in the first position to provide the support for the articles of fabric directly engaged therewith (Claim 6);
- c. A latch mechanism to secure said extensions (Claim 8);
- d. Said latch mechanism disposed within the support and selectively operated to release the securable end of the extension to permit pivoting between the first and second positions (Claim 9).

Schneider et al. disclose a clothing organization device comprising a central support 1b, and a plurality of extensions 5 and 6 having pivot ends 7a, 7b and securable ends 5a, 6a and including apertures 10 for receiving a plurality of attachment members for directly receiving items thereon. Schneider et al. recite, "Several conventional hangers can be attached on each arm, allowing clothing to be hung by hangers on the device in an organized fashion..." (see Abstract, Lines 6-8). The "conventional hangers" as disclosed by Schneider et al. serve as attachment members, which attach to the extensions and directly support articles of clothing analogous to the attachment members of the present application. Schneider et al. further disclose said extensions as pivotally movable between a first position where the extensions are generally disposed vertically relative to the support, and a second position where the extensions are generally disposed horizontally relative to the support (see FIG. 1).

With respect to a, Schneider et al. disclose said attachment members capable of directly engaging and supporting articles of fabric when the extensions are in both said first and said second positions. Schneider et al. recite, "It is a further object of the present invention to provide a hanger that improves utilization of storage space both horizontally and vertically. It is a further object of the present invention to provide for a hanger allowing compression of clothing to further improve utilization of storage space." (See Column 2, Lines 36-43).

With respect to b, Schneider et al. disclose said extensions including securable ends 5a,6a to secure said extensions in said first position to provide support of the articles directly engaged therewith via attachment members (see FIG. 1).

With respect to c, Schneider et al. disclose a latch mechanism 3,4 for engaging and securing said securable ends 5a,6a of said extensions (see FIG. 1).

The Saladee and Schneider et al. references are analogous art because they are from the same field of endeavor—hanging clothes racks. It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the extensions disclosed by Saladee with those as disclosed by Schneider et al., including the attachment means, and to further include the latching means 3,4 as set forth by Schneider et al. within the elongated openings 8 as disclosed by Saladee in order to engage the securable ends of the extensions to Schneider et al.

Schneider et al. set forth motivation for providing a clothes storage device with the extensions and latching means disclosed. Schneider et al. recite, "Most clothing organization systems poorly utilize all available space. The typical "bar and hanger"

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system requires hangers to be spaced horizontally, leaving sufficient space between hangers to accommodate clothing or accessory items. This typically does not allow for effective use of vertical or horizontal space within the closet or other storage space. In addition, most clothing organization systems do not allow for the "compression" of clothing." (See Column 1, Lines 21-28). Schneider et al. continue, "It thus appears that there is a need for a clothing device, method, and system for clothing organization that overcomes the problems of the prior art. These problems include poor utilization of vertical and horizontal space in closets, lack of use of compression of clothing, difficulties with retrieving stored clothing, and failure to facilitate organized storage of clothing, such as in groups or outfits, using a hanger having a plurality of hang locations, such as holes, for fixedly holding conventional hangers, accessory holders, an attachment point for chaining together hangers, or a method and system to allow clothing on the arms to be compressed by pivoting the arms upward." (See Column 2, Lines 21-32).

There would be a reasonable expectation of success for combining the Saladee and Schneider et al. references. First, the substitution of the pivoting extensions set forth by Schneider et al. in place of those as disclosed by Saladee would be successful and easily implemented because both extensions are connected via a pivot pin at their lower ends. Second, the inclusion of the latch mechanism would be successful, in that it is disposed within the sidewall of the device support body. It would be obvious and successful to dispose said latching mechanism in the sidewall of the support disclosed

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by Saladee in the same manner, so that said latching mechanism communicates with the substituted extensions.

With respect to d, in the above set forth combination of elements of the respective devices to Saladee and Schneider et al., the latch mechanism is disposed within the support and selectively operated to release the securable end of the extensions to permit pivoting between the first and second positions.

In regard to claim 11, the combination of the Saladee and Schneider et al. references as set forth above sets forth a post supported by a base; a latch mechanism disposed within an opening in the post; and a plurality of extensions adjustably connected to the post and movable between a first position to provide access to clothing items stored thereon and a second position to provide compact or "compressed" arrangement of the clothing; wherein a securable end of said extensions is inserted into a slot in said post, said latching mechanism being disposed in said slot.

In regard to claims 12-14, 21, and 23, Schneider et al. disclose the attachment members as set forth above. The examiner takes official notice that the attachment members would obviously include both hooks and clamps. Schneider et al. discloses said device as capable for supporting "conventional hangers" and "accessory holders" (see Column 2, Line 29). Conventional hangers and accessory holders are well known in the art to respectively include both hooks and clamps.

In regard to claim 15, it is inherent within the Schneider et al. reference that said attachment means are capable of rotating independently of the extension in various directions.

Insomuch as understood in view of the 35 U.S.C. 112 rejections set forth above, in regard to claim 16, the combination of the Saladee and Schneider et al. references discloses all of the claim limitations as set forth above.

In regard to claims 17 and 20, the combination of the Saladee and Schneider et al. references set forth above, by which each extension as disclosed by Saladee would be replaced by an extension as disclosed by Schneider et al., provides a device comprising a first set of a plurality of extension disposed above a second set of a plurality of extensions, each of said extensions being independently and selectively positioned.

In regard to claim 22, the latch mechanism as taught by Schneider et al. includes a rod 3a,4a, defined as a thin or straight piece of material, which extends horizontally and moves vertically to engage and disengage the securable end of the extension.

In regard to claim 24, the combination of Saladee and Schneider et al. as set forth above includes a device comprising a plurality of extensions disposed within the post for selectively securing the plurality of extensions in the compact position and supporting the clothing items thereon.

With respect to recitation regarding attachment members directly engaging and supporting articles in both first and second positions, it is noted that since this recitation is functionally reciting specific unclaimed elements (articles), a reference need not

explicitly show use with those elements. Rather, a reference need only *be capable of* being used in such a way as claimed.

Allowable Subject Matter

The claims as rejected above are not patentable over the prior art noted. Claim 22 sets forth the latch mechanism in broad terms; however the Examiner believes the claims *may* hold patentable weight if the particulars of the latch mechanism as set forth in the disclosure that Applicant regards as patentable over the prior art are incorporated into the limitations of a claim further including the particulars of the structure of the rack itself, the extensions, the attachment means, and their respective operations.

Response to Arguments

Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- US Patent No. 6,702,129 to Harris
- US Patent No. 5,022,617 to Henderson
- US Patent No. 3,964,611 to Galen et al.
- US Patent No. 2,469,494 to Bushko

- US Patent No. 1,587,676 to Patterson

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

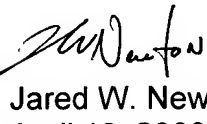
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

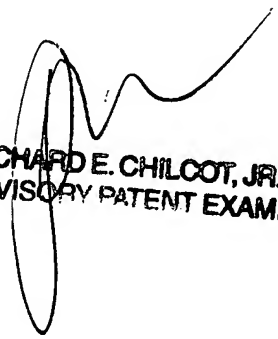
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jared W. Newton
April 19, 2006
JWN



RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER